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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,531	02/27/2002	Philip David Cox	15931-US	7701

7590

04/24/2003

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EXAMINER

SMITH, JULIE KNECHT

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/084,531

**Applicant(s)**

COX ET AL.

**Examiner**

Julie K Smith

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-17, drawn to a bearing block structure, classified in class 384, subclass 434.
  - II. Claims 18-20, drawn to a method of assembling a bearing, classified in class 29, subclass 898.042.
2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the method claimed could be used to make a materially different product, such as the one shown in the patent by Evans (2,082,944).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Duane Coordes on April 14, 2003 a provisional election was made without traverse to prosecute the invention of I, claims 1-17. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding claims 6 and 13, the phrase "generally" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-6, 8-14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans (2,082,944). Evans discloses a bearing clock structure comprising first and second bearing block sections (1,2), the sections including first and second arc shaped cavities (see fig. 1) for receiving first and second identical half cylinder shaped inserts (3,4), an anti-rotation clip (11) projecting radially inwardly from the bearing block sections and contacting end portions of the bearing block inserts, and connector bolts (5) securing the first and second bearing block sections and inserts.

*Claim Rejections - 35 USC § 103*

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to claim 1-6, 8-14 and 16 above, and further in view of Rabe (5,688,054). Evans does not disclose the material that the inserts are made of, however, Rabe teaches bearing parts made from a wear-resistant polyethylene material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Evans with the teachings of Rabe to make the bearing inserts out of a wear-resistant polyethylene material so as to reduce friction and wear to the bearing assembly, thus increasing its life.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to claim 1-6, 8-14 and 16 above, and further in view of Novoselsky et al. (6,100,809). Evans discloses a bearing assembly, as claimed, but lacks an audible warning device for indicating wear of the bearing inserts. However, Novoselsky et al. teaches a bearing wear detection system that provides an audible signal when a bearing part wears to a preselected level.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Evans with the teachings of Novoselsky et al. as

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it is old and well known in the art to provide bearing assemblies with audible warning systems to detect a preselected level of wear.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4,704,038 to Bruchon et al.	3,071,419 to Lower et al.
4,845,817 to Wilgus	1,391,886 to Fritz
6,280,091 to Martin et al.	3,929,395 to Stojek
4,930,910 to Mori et al.	5,733,049 to Shimmell
4,488,826 to Thompson	5,169,244 to Siebert et al.
3,096,578 to Sample	5,727,885 to Ono et al.
3,576,353 to Barker	3,721,461 to Nelson et al.
3,586,187 to Wright	4,209,209 to Stark
5,017,022 to Ruggles et al.	4,799,690 to Gabriele
1,736,998 to Darrach	4,270,813 to Wiggins
4,856,366 to Nikolaus	3,929,395 to Stojek

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Smith whose telephone number is 703-305-3948. The examiner can normally be reached on Monday-Friday, 8-5:30, (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on 703-308-3668. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Jks

jks

April 18, 2003

  
DAVID A. BUZCI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600